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Federal Communications Commission  
Office of Secretary

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054**

Application by Ameritech Michigan )  
for Authorization Under Section 271 )  
of the Communications Act to ) CC Docket No. 97-137  
Provide In-Region, InterLATA Service )  
in the State of Michigan )

**COMMENTS OF INTERMEDIA COMMUNICATIONS INC.  
OPPOSING GRANT OF IN-REGION, INTERLATA AUTHORITY  
TO AMERITECH MICHIGAN**

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June 10, 1997

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## SUMMARY

In interconnection arbitration proceedings currently being conducted against Ameritech in three states, Intermedia Communications Inc. ("ICI") has uncovered information regarding a relationship between Ameritech and a wholly-owned subsidiary that is being used to circumvent the interconnection, unbundled element, and pricing dictates of the Telecommunications Act of 1996 ("1996 Act"). This relationship directly violates several of the items in the 14-point checklist established in Section 271 of the 1996 Act, and has a direct bearing on the Commission's review of the application of Ameritech Michigan to provide in-region interLATA service.

Through these arbitration proceedings, ICI seeks interconnection for the purposes of transport and termination of frame relay traffic. Frame relay technology, including flexible bandwidth connectivity and multi-protocol support, is used to provide digital data, voice and video network services on Intermedia's network platform. Ameritech has refused to provide such interconnection based in part on a claim that its subsidiary, AADS -- not Ameritech itself, owns all frame relay switches used in Ameritech's provisioning of frame relay service.

Ameritech purchases all of its frame relay switching functionality from AADS, pursuant to individually negotiated contracts. Ameritech then repackages the frame relay switching service and sells it back to AADS as part of its basic intrastate frame relay service and interstate frame relay access service. Ultimately, AADS purchases Ameritech's tariffed frame relay services, repackages them and resells them to its own customers. Because Ameritech purchases a fundamental component of its regulated services from a subsidiary that is not subject to rate regulation, whatever Ameritech pays to AADS becomes

Ameritech's "cost" of providing service. In fact, the rates that Ameritech has proposed for interconnection are based primarily (and in some cases almost exclusively) on rates charged to Ameritech by AADS -- rates that Ameritech concedes do not reflect TELRIC costing methods, and that have never been reviewed by the FCC or state regulators.

In response to ICI's request to obtain interconnection to Ameritech's network for frame relay traffic, Ameritech has refused to: offer interconnection (point 1); afford nondiscriminatory access to network elements (point 2); offer switching as an unbundled element (points 4 and 6) and offer reciprocal compensation arrangements (point 13). The corporate structure Ameritech has created to handle its frame relay services allows Ameritech to circumvent these fundamental requirements of the 1996 Act. Further, AADS' partnerships with long distance internet providers raise questions as to whether Ameritech can comply with the requirements of section 272 of the Act. For these reasons, ICI urges Commission to reject Ameritech's 271 Application in Michigan.

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Ameritech Michigan  
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Application by Ameritech Michigan  
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Provide In-Region, InterLATA Service  
in the State of Michigan

)  
)  
) CC Docket No. 97-137  
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COMMENTS OF INTERMEDIA COMMUNICATIONS INC.  
OPPOSING GRANT OF IN-REGION, INTERLATA AUTHORITY  
TO AMERITECH MICHIGAN

Intermedia Communications Inc. ("ICI"), pursuant to the Commission's public notice<sup>1</sup> in the above-captioned proceeding, and by its undersigned counsel, hereby submits its comments in opposition to the Application of Ameritech Michigan for authorization under section 271 of the Communications Act to provide in-region, interLATA service in the state of Michigan. ICI will show herein that Ameritech's relationship with a wholly-owned subsidiary violates several provisions of the 14-point checklist established in section 271 of the Telecommunications Act of 1996.

I. INTRODUCTION

During the course of interconnection arbitration proceedings currently being conducted against Ameritech in three states, Intermedia Communications Inc. ("ICI") has

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<sup>1</sup> *Public Notice*, Comments Requested on Application By Ameritech Michigan For Authorization Under Section 271 of the Communications Act To Provide In-Region InterLATA Service in the State of Michigan (CC Docket No. 97-137), DA 97-1072, May 21, 1997.

uncovered information regarding a relationship between Ameritech and a wholly-owned subsidiary that is being used to circumvent the interconnection, unbundled element, and pricing dictates of the Telecommunications Act of 1996 ("1996 Act"). As such, and as discussed below, this relationship directly violates several of the items in the 14-point checklist established in Section 271 of the 1996 Act, and has a direct bearing on the Department's review of the application of Ameritech Michigan to provide in-region interLATA service, which is currently pending before the Federal Communications Commission ("FCC").<sup>2</sup> ICI notes that its pending arbitration proceedings do not include Michigan, but are being conducted in the states of Illinois, Indiana and Ohio.<sup>3</sup> As discussed below, however, Ameritech maintains the same relationship with its subsidiary in all of its states, and so all information contained herein is directly relevant to Ameritech's 271 Application for Michigan, as well the other states in its operating area.

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<sup>2</sup> *Application by Ameritech Michigan for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Michigan*, CC Docket No. 97-137, Public Notice DA 97-1072, issued May 21, 1997.

<sup>3</sup> Petition by Intermedia Communications Inc. for Arbitration with Ameritech Illinois Pursuant to the Telecommunications Act of 1996, Docket No. 97-AB-002; Indiana Pursuant to the Telecommunications Act of 1996, Cause No. 40787-INT-01; and Petition by Intermedia Communications Inc. for Arbitration with Ameritech Ohio Pursuant to the Telecommunications Act of 1996, Case No. 97-285-TP-ARB.

## **II. BACKGROUND**

### **A. ICI's Requests for Interconnection**

ICI initially sought interconnection arrangements with Ameritech in Illinois, Indiana and Ohio on October 2, 1996. As per ICI's usual practice, ICI sought interconnection for a wide range of services, including its frame relay service. The interconnection discussions were uneventful, and resembled those that had resulted in negotiated interconnection agreements with six other incumbent local exchange carriers ("ILECs"). On the 160th day of those negotiations, however, Ameritech advised ICI that it refused to agree to provide interconnection to its frame relay network and reciprocal compensation for transport and termination of frame relay traffic. Accordingly, ICI filed petitions for arbitration in Illinois, Indiana, and Ohio. To date, these are the only three arbitration proceedings that ICI has been compelled to initiate; all interconnection between ICI and other incumbent local exchange carriers arrangements have been negotiated without recourse to state regulators.

### **B. The Status of the Arbitration Proceedings**

As of yesterday, Monday, June 9, 1997, the records in the arbitration proceedings have been completed in all three states, and the parties are currently awaiting decisions by the arbitrators in those states. During the course of discovery, and during cross-examination of Ameritech's witnesses in all three proceedings, Ameritech admitted that it had a relationship with a wholly-owned subsidiary named Ameritech Advanced Data Services, Inc. ("AADS"), in which Ameritech purchased frame relay switching functionality

from AADS that was used to provide Ameritech's intrastate frame relay service, and its interstate frame relay access service. Ameritech further admitted that the rates it pays AADS are established through individually negotiated contracts. Ameritech produced a copy of a three-page "Services Agreement" contract between Ameritech and AADS, however, this contract contained no reference to the amounts that were actually paid by Ameritech to AADS.<sup>4</sup>

Intermedia Communications Inc. submitted to Ameritech data requests specifically requesting information defining the Ameritech/AADS relationship. In response, Ameritech provided very limited information. ICI filed, and the Illinois Commerce Commission granted, a Motion to Compel Ameritech to provide the requested information. Even then, Ameritech did not respond until the second day of the Arbitration hearings. In doing so it produced four pages showing unexplained and aggregated rate information, as well as two unidentified invoices. This information was clearly not fully responsive and does nothing to explain the rates, terms and conditions under which Ameritech purchases frame relay from AADS. The relationship between Ameritech and AADS -- or at least those aspects of the relationship that ICI has been able to discover to date -- is discussed in Section III, below.

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<sup>4</sup> Ameritech did not produce an executed copy of the agreement until compelled to do so by the hearing examiner in Illinois. Further, to date, Ameritech has not produced invoices or any other information containing documentation of the rates charged by AADS to Ameritech.

### **C. A Brief Description of Frame Relay Service**

Frame relay technology, including flexible bandwidth connectivity and multi-protocol support, is used to provide digital data, voice and video network services on Intermedia's network platform. Frame relay is a fast packet technology developed to improve upon older, X.25 packet technology, and is positioned to improve communications performance through reduced delays, more efficient bandwidth utilization and decreased equipment cost. When a customer orders frame relay service, it orders permanent virtual circuits ("PVCs") that provide a preset amount of capacity between predesignated points. These points can be interstate or intrastate. The customer can reconfigure its frame relay virtual network by adding new locations or deleting existing locations upon request. The service is available to provide data, voice and video services.

Frame relay switches (whether owned by the same or different carriers) are interconnected by means of a network-to-network interface ("NNI"). An NNI consists of a port on each carrier's frame relay switch, and a transport element (typically a DS1 circuit) between those ports. NNI defines procedures for separate networks to interconnect with one another to support frame-relay operations.

To date, ICI has voluntarily negotiated interconnection arrangements that provide for the transport and termination of frame relay service at reciprocal rates with six ILECs -- Bell Atlantic, BellSouth, GTE, NYNEX, Southwestern Bell and Sprint United/Centel. ICI's interconnection arrangements with incumbent local exchange carriers have been handled in one of two ways. The most common method has been an agreement to

"swap" ports on each other's switches -- each carrier contributes a port and shares the cost of the DS1 circuit that connects the ports. The second method is to have the carriers agree to pay reciprocal rates for ports, and to share the cost of the DS1 transport that connects the ports. Ameritech rejected requests for this form of interconnection in part on the grounds that all of the frame relay switches that it used in the provision of frame relay service were owned by AADS.

### **III. DESCRIPTION OF THE RELATIONSHIP BETWEEN AMERITECH AND AADS**

What Ameritech has made available concerning its relationship with AADS is contained in three sources: the responses submitted in response to ICI's data requests; the partial contract provided in response to the ICI data requests; the transcript of the cross-examination of Ameritech witnesses Whiting and Wardin from the Ohio arbitration proceeding (appended as Attachments 1 and 2, respectively); the transcript of the cross-examination of the same witnesses in the Indiana arbitration proceeding (appended as Attachments 3 and 4, respectively); and the Ameritech Illinois Supplemental Verified Statement (appended as Attachment 5). In addition, some information on AADS can be obtained from publicly available sources, such as Dun & Bradstreet and various press reports. All of these sources are cited as appropriate in the following discussion of the Ameritech/AADS relationship.

Ameritech incorporated AADS in 1992, and ultimately established sister subsidiaries of AADS in Illinois, Indiana, Michigan, Ohio and Wisconsin.<sup>5</sup> Various press reports describe AADS as providing frame relay,<sup>6</sup> asynchronous transfer mode ("ATM"),<sup>7</sup> internet services,<sup>8</sup> customer premises equipment and other data services.<sup>9</sup>

Ameritech has acknowledged that all frame relay switches used in the provision of Ameritech frame relay intrastate and interstate access services are owned by AADS.<sup>10</sup> (In light of the range of services reportedly provided by AADS, it appears that AADS owns other types of switches as well.) Ameritech purchases all of its frame relay switching functionality from AADS, pursuant to individually negotiated contracts.<sup>11</sup> On cross examination, Ameritech's witness admitted that Ameritech is the only party that

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<sup>5</sup> See Dunn & Bradstreet, Inc. Business Record, Ameritech Advanced Data Services (1997).

<sup>6</sup> E.g., Annie Lindstrom, Frame Relay to Go Distance Soon, COMMUNICATIONS WEEK, July 4, 1994.

<sup>7</sup> Annie Lindstrom, Ameritech to Offer Internet Access, COMMUNICATIONS WEEK, March 28, 1994.

<sup>8</sup> E.g., Steve Farr, Grant To Help Students Surf the Internet, COURIER JOURNAL, Dec. 7, 1995, pg. 3B.

<sup>9</sup> E.g., David Baum, Building Successful Systems Without a Legacy, DATA BASED ADVISOR, Nov. 1, 1996.

<sup>10</sup> See Ameritech Response to ICI data request No. 7; and Attachment 1, Ohio Whiting Testimony at 96.

<sup>11</sup> See Attachment 1, Ohio Whiting Testimony at pgs. 85-86; Attachment 2, Ohio Wardin Testimony at pgs. 155-162; and Attachment 4, Indiana Wardin Testimony, at pgs. 111-113.

purchases frame relay switching from AADS, and that no other party has a similar contractual relationship.<sup>12</sup> Ameritech then repackages the frame relay switching service and sells it back to AADS as part of its basic intrastate frame relay service and interstate frame relay access service.<sup>13</sup> Ultimately, AADS purchases Ameritech's tariffed frame relay services, repackages them and resells them to its own customers.<sup>14</sup>

Moreover, while Ameritech contends that it need not provide transport and termination of exchange frame relay service at mutually compensatory rates,<sup>15</sup> it has nevertheless proposed a discounted NNI charge that it will offer as an interconnection rate element if compelled to do so by state regulators. Because Ameritech purchases a fundamental component of its regulated services from a subsidiary that is not subject to rate regulation, whatever Ameritech pays to AADS becomes Ameritech's "cost" of providing service.<sup>16</sup> Indeed, Ameritech's witness has admitted that the negotiated (and to date undisclosed) rate that Ameritech pays its AADS subsidiary for frame relay switching

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<sup>12</sup> E.g., Attachment 2, Ohio Wardin Testimony at pgs. 155-162.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Ameritech contends that, because frame relay customers do not have ubiquitous dial-up access to all telephone customers in a given exchange, the service does not fall within the definition of "exchange service" under Section 251(c) of the 1996 Act and so is not subject to interconnection. ICI takes the position that no such restrictions can be found in the letter or the spirit of the Act.

<sup>16</sup> Attachment 5, Verified Statement of W. Karl Wardin on Behalf of Ameritech Illinois, Docket No. 97 AB-002, filed May 27, 1997, pg. 13.

constitutes as much as 93% of the total cost of Ameritech's proposed interconnection rates.<sup>17</sup> Because Ameritech has to date refused to disclose the rates that it pays AADS for frame relay switching, it is not possible to determine if Ameritech is paying excessive prices for this component of its tariffed frame relay services.<sup>18</sup> It is beyond dispute, however, that the rates that Ameritech has proposed for interconnection are based primarily (and in some cases almost exclusively) on rates charged to Ameritech by AADS -- rates that Ameritech concedes do not reflect TELRIC costing methods, and that have never been reviewed by the FCC or state regulators.<sup>19</sup>

In the following section, ICI demonstrates that Ameritech is using its AADS subsidiary to evade the interconnection, pricing, and unbundling requirements of the 1996

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<sup>17</sup> Attachment 2, Ohio Wardin Testimony at pg. 145-147.

<sup>18</sup> In 1990, the Federal Communications Commission initiated an inquiry into allegations that NYNEX paid inflated rates for goods and services purchased from its Material Enterprises Company ("MECO") subsidiary. In October 1990, the FCC adopted a Consent Decree whereby, without admitting any violations, the NYNEX provided for a contribution to the United States treasury in the amount of \$1.49 million and took other steps to protect NYNEX's ratepayers. In his concurring statement to the Order, Commissioner Barrett indicated that he believed that there was sufficient evidence to find wrongdoing to prove NYNEX violated Commission rules, but acknowledged the benefits of an expeditious resolution of the matter. He urged that this Order should send the "message to those this Commission regulates . . . that if they violate our rules, they should be prepared to pay the penalty." *New York Telephone Co. New England Telephone And Telegraph Company Apparent Violations of the Commission's Rules and Policies Governing Transactions With Affiliates*, 5 FCC Rcd 5892 (1990), *recon. denied*, 6 FCC Rcd 3303 (1991). Absent disclosure of the prices Ameritech has paid for the services obtained from AADS, it is impossible to determine if similar concerns are raised by the Ameritech/AADS relationship.

<sup>19</sup> Attachment 1, Ohio Whiting Testimony at 76, 85-86, and Attachment 5, Verified Statement of W. Karl Wardin on Behalf of Ameritech Illinois at 14.

Act. In so doing, Ameritech fails to meet several of the checklist items enumerated in Section 271 of the Act.

**IV. AMERITECH'S SELF-DEALING RELATIONSHIP WITH AADS PREVENTS IT FROM MEETING THE FOURTEEN POINT CHECKLIST REQUIRED UNDER THE 1996 ACT.**

Before a Bell operating company can be authorized to provide in-region interLATA service within a given State, the FCC, after consulting with the Attorney General and the relevant state regulatory body, must find that the agreement or statement complies with the "fourteen-point checklist" established in Section 271 (c)(2)(B) of the 1996 Act.<sup>20</sup>

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<sup>20</sup> The fourteen point checklist is as follows: (1) The BOC must offer interconnection in accordance with the requirements of 47 U.S.C. §§ 251(c)(2) and 252(d)(1); (2) The BOC must afford nondiscriminatory access to network elements in accordance with the requirements of 47 U.S.C. §§ 251(3)(3) and 252(d)(1); (3) The BOC must provide nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the BOC at just and reasonable rates in accordance with the requirements of Section 224 of the Communications Act of 1934; (4) The BOC must unbundle local loop from local switching and other services; (5) The BOC must unbundle local transport from the trunk side of a wireline local exchange carrier switch from local switching and other services; (6) The BOC must unbundle local switching from local transport, local loop transmission and other services; (7) The BOC must provide interconnecting carriers with nondiscriminatory access to: 911 and E911 services; directory assistance services to allow the other carrier's customers to obtain telephone numbers; and operator call completion services; (8) The BOC must offer white pages directory listings for customers of other carriers' telephone exchange service; (9) Until the date by which telecommunications numbering administration guidelines, plan or rules are established by the FCC pursuant to 47 U.S.C. § 251(e), the BOC must afford nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, the BOC must comply with the FCC's numbering guidelines, plan, or rules; (10) The BOC must afford nondiscriminatory access to databases and associated signaling necessary for call routing and completion; (11) The BOC must be in full compliance with the FCC's number portability regulations; (12) The BOC must afford nondiscriminatory access to such services or information as are necessary to

(continued...)

In response to ICI's request to obtain interconnection to Ameritech's network for frame relay traffic, Ameritech has refused to: offer interconnection (point 1); afford nondiscriminatory access to network elements (point 2); offer switching as an unbundled element (points 4 and 6) and offer reciprocal compensation arrangements (point 13).

The corporate structure Ameritech has created to handle its frame relay services allows Ameritech to circumvent these fundamental requirements of the 1996 Act. First, Section 251(c)(2) of the 1996 Act requires incumbent local exchange carriers to provide interconnection to their network to competing carriers.<sup>21</sup> This obligation is reiterated for BOCs seeking intraLATA relief in checklist point 1. Yet, Ameritech has taken the position that because the frame relay switches are not owned by Ameritech, but are instead owned by AADS, Ameritech does not have the ability to allow ICI to interconnect directly with those switches.<sup>22</sup> Thus, by the simple tactic of placing critical network

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<sup>20</sup>(...continued)

allow the requesting carrier to implement local dialing parity in accordance with the requirements of 47 U.S.C. § 251(b)(3); (13) The BOC must offer reciprocal compensation arrangements in accordance with the pricing requirements of 47 U.S.C. § 252(d)(2); and (14) Telecommunications services must be available at wholesale rates for resale in accordance with the requirements of 47 U.S.C. §§ 251(c)(4) and 252(d)(3).

<sup>21</sup> 47 U.S.C. § 251(c)(2) imposes upon incumbent LECs "the duty to provide, for the facilities and equipment of any requesting carrier, interconnection with the local exchange carrier's network. . . ." *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, 11 FCC Rcd. 15499, ¶ 181 (1996). *See also* 47 C.F.R. § 51.305, the FCC regulation implementing the Act and interconnection obligations.

<sup>22</sup> E.g., Attachment 5, Supplemental Verified Statement of Timothy Whiting at 5.

equipment in a wholly-owned subsidiary, Ameritech contends that it may circumvent the interconnection requirements of the 1996 Act.<sup>23</sup>

Second, Section 252(d)(2) of the 1996 Act requires that ILECs establish changes for the transport and termination of traffic using "additional," or incremental cost. This requirement is reiterated in checklist point 3. Similarly, Sections 251(c)(2) and 252(d)(1) require that ILECs establish rates for interconnection of facilities and equipment that are just and reasonable. The FCC and state regulatory authorities have found that these provisions also require an incremental costing approach. These latter pricing standards are reflected in checklist point 1. Ameritech's witnesses have made clear however, that the "cost" of frame relay switching is whatever Ameritech pays its own subsidiary. Ameritech witness Wardin admitted that Ameritech purchases frame relay switching from AADS pursuant to individually negotiated contracts at rates that have not been disclosed.<sup>24</sup> Mr. Wardin further admitted that the rates charged by AADS are not subject to regulation, have not been approved by the FCC or any state regulatory body, and that there is no way of knowing whether AADS' rates reflect a TELRIC pricing methodology.<sup>25</sup> In fact, AADS'

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<sup>23</sup> AADS also owns Internet routers, ATM, and other data facilities. Ameritech is also refusing to provide interconnection for internet traffic. This seems to indicate a pattern by which Ameritech is attempting to circumvent its obligations under the 1996 Act, not only for frame relay service but for other advanced data services as well.

<sup>24</sup> E.g. Attachment 4, Indiana Wardin Testimony and Attachment 1, Ohio Whiting Testimony, at pgs. 111-113.

<sup>25</sup> E.g. Id. at pg. 125, Ohio Whiting Testimony at pgs. 76, 85-86.

rates do not meet the Act's pricing requirements in light of Mr. Wardin's statement that AADS' charges need not adhere to those standards.<sup>26</sup>

Because frame relay service is not billed on a per minute-of-use basis, the distinction between the exchange of traffic at reciprocal and mutually compensatory rates, and the provision of interconnection of facilities and equipment, has become somewhat blurred. In most of the frame relay interconnection arrangements that ICI has negotiated with incumbent local exchange carriers, ICI has negotiated a simple "swap" of ports on ICI's and the ILEC's respective switches, and has agreed to share the cost of the transport facility that connects the two switches. In at least one case, ICI and the incumbent local exchange carrier pay each other a reciprocal rate for use of each other's frame relay switch ports and share the cost of the transport between their respective switches. Whether these arrangements are deemed "reciprocal compensation," or the purchase of interconnection facilities, it is clear that Ameritech fails to meet the pricing standards imposed by the 1996 Act. Again, by the simple expedient of placing the ownership of critical network elements in a wholly-owned subsidiary, Ameritech is attempting to circumvent regulatory scrutiny of its charges for interconnection and the transport and termination of traffic. In so doing, it fails to comply with checklist points 1 & 13 and other provisions of the Act.

Third, Section 251(c)(3) of the Act<sup>27</sup> and checklist points 2, 4 and 6 all require unbundling of switching elements. Ameritech has taken the position that, because

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<sup>26</sup> Attachment 5, Wardin Illinois Verified Statement at 14.

<sup>27</sup> 47 C.F.R. § 251(c)(3).

AADS owns the switches, Ameritech cannot offer unbundled access to them.<sup>28</sup> Again, by the simple act of creating a self-dealing subsidiary, Ameritech attempts to shield its regulated frame relay services from the unbundling requirements of the 1996 Act.

Because Ameritech has chosen to establish AADS as a repository for frame relay switches and other advanced facilities, it is unable to comply with the 14-point checklist as discussed above. Whether the relationship with the AADS subsidiary was established by Ameritech with intent to circumvent the Act is irrelevant. The impact is the same -- competitors are prohibited from interconnecting for the transport and termination of advanced services. Ameritech has made clear that this is its position not only with respect to frame relay services, but also with respect to internet access services. Indeed, because AADS owns Ameritech's advanced data facilities, including frame relay switches, internet routers, ATM facilities, etc., Ameritech is in the position to use this AADS subsidiary to insulate all of the most important new technology from the interconnection, unbundling, and pricing requirements of the 1996 Act. This is clearly violative of the broad goals of the 1996 Act -- the promotion of competition and the advancement of new technology.

Moreover, press reports indicate that AADS has partnered with long-distance internet providers to cross LATA boundaries within Ameritech's territory.<sup>29</sup> The exact nature of these partnerships with other carriers is unknown. As such they raise a host of

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<sup>28</sup> E.g. Attachment 4, Indiana Wardin Testimony at pg. 106-107; Attachment 1, Ohio Whiting Testimony at pg. 85-86; and Attachment 2, Ohio Wardin Testimony at pgs. 155-162.

<sup>29</sup> E.g., George McLaren, Sprint and Ameritech/GTE Obtain State Internet Contracts, THE INDIANAPOLIS STAR, CITY/STATE, June 7, 1995.

questions, including whether Ameritech can comply with Section 272 of the Act. For instance, if AADS is acting as an exchange access provider to these long-distance internet providers, the Commission has specifically recognized the potential for evasion of section 272 requirements by Bell Operating Company's transfer of local exchange and exchange access facilities and capabilities to an affiliate.<sup>30</sup> Without evidence of the details surrounding AADS' dealings with these long distance carriers and with any Ameritech interstate affiliate, the Commission cannot determine whether these partnerships violate Section 272 of the Act.<sup>31</sup> Because Ameritech has not disclosed the nature of these partnerships, it has not met its burden of proving that it has complied with Section 272 of the Act. As such, until the Commission conducts further inquiry into these relationships it cannot approve Ameritech's application.

## **V. CONCLUSION**

ICI respectfully urges the Federal Communications Commission to reject

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<sup>30</sup> *Implementation of the Non-accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-489, rel. Dec. 24, 1996, at ¶ 309.

<sup>31</sup> *Cf. Bell Atlantic Telephone Companies Offer of Comparably Efficient Interconnection to Providers of Internet Access Services*, CCBPol 96-09, Order, DA 96-891, rel. June 6, 1996, at ¶¶ 48-51.

**Intermedia Communications Inc.  
Ameritech Michigan**

Ameritech's 271 Application in Michigan on the grounds of noncompliance with the 14 point checklist mandated by the Telecommunications Act of 1996.

Respectfully submitted,



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June 10, 1997

**Certificate of Service**

The undersigned hereby certifies that a copy of the foregoing Comments in Opposition in CC Docket No. 97-137 was served on the following parties via U.S. First Class mail, postage prepaid on this 10th day of June, 1997.

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**ATTACHMENT 1**

**TRANSCRIPT: CROSS EXAMINATION OF  
TIMOTHY WHITING AT  
OHIO ARBITRATION HEARING  
("Whiting Ohio Testimony")**

MC GINNIS & ASSOCIATES, INC.  
COLUMBUS, OHIO (614) 431-1344

1 would call Mr. Timothy Whiting.

2 (Witness sworn.)

3 - - -

4 TIMOTHY WHITING

5 being first duly sworn, as prescribed by law, was examined and  
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. STEMM:

9 Q. Yes, Mr. Whiting, you'll notice I've placed before you what  
10 has been marked as Ameritech Ohio Exhibit 1, which is entitled  
11 "Direct Testimony of Timothy Whiting." Do you have that before  
12 you?

13 A. Yes, I do.

14 Q. And was Ameritech Ohio Exhibit No. 1 -- Well, before I  
15 start, let me just have you state for the record your name and  
16 who you are appearing on behalf of today?

17 A. My name is Tim Whiting, W-h-i-t-i-n-g, and I'm appearing on  
18 behalf of Ameritech Ohio.

19 Q. Thank you. And turning your attention to Ameritech Ohio  
20 Exhibit 1, was that testimony prepared by you or under your  
21 direct supervision?

22 A. Yes, it was.

23 Q. And do you have any corrections to make to that testimony  
24 today?

25 A. No.